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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058143
Party	Plaintiff Van de Wall B.V.
Correspondence Address	KUROSH NASSERI LAW OFFICES OF KUROSH NASSERI PLLC 3207A M STREET NW, 3RD FLOOR WASHINGTON, DC 20007 UNITED STATES babatunde@kurosh.net, mail@kurosh.net
Submission	Other Motions/Papers
Filer's Name	Babatunde Williams
Filer's e-mail	babatunde@kurosh.net, mail@kurosh.net, michelle@kurosh.net
Signature	/Babatunde Williams/
Date	10/03/2014
Attachments	AFROJACKS-Petition to Cancel-Petitioners Initial Disclosures.pdf(573872 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

VAN DE WALL B.V.

Petitioner,

v.

Cancellation No. 92058143

D-MINOR, INC.

Respondent.

PETITIONER'S INITIAL DISCLOSURES

Van de Wall B.V. ("Petitioner") makes the following initial disclosures pursuant to Rule 26(a)(1). These disclosures are not intended, and should not be construed, as a waiver of any objection to the production, use, or admission into evidence of any document or information that Petitioner may be legally entitled to assert during the discovery or trial of this action. In addition, Petitioner expressly reserves the right to identify additional individuals and/or documents as investigation and discovery are ongoing.

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

The following persons are likely to have discoverable information relevant to this Petition to Cancel that Petitioner may use to support its position:

1. Michael Antonecchia
Co-Founder
D-Minor, Inc.
128 East 85th Street, Apt 6F
New York, NY 11021

Mr. Antonecchia has information regarding use by the respondent D-Minor, Inc. ("Respondent") and/or its predecessor in interest Lachesis, Corp., of the AFROJACKS mark specified in Respondent's U.S. Trademark Registration No. 3,556,451 ("Respondent's Mark"), including but not limited to information regarding (i) the issue of priority as it relates to Petitioner's use of the AFROJACK mark specified in Petitioner's U.S. Trademark Application Serial No. 86/108564 ("Petitioner's Mark"); and (ii) the issue of abandonment as it relates to Respondent's use of Respondent's Mark.

2. Brett Tabano
Co-Founder
D-Minor, Inc.
333 E 75th Street, Apt 7F
New York, NY 11021

Mr. Tabano has information regarding use by Respondent and/or its predecessor in interest Lachesis, Corp., of Respondent's Mark, including but not limited to information regarding (i) the issue of priority as it relates to Petitioner's use of Petitioner's Mark; and (ii) the issue of abandonment as it relates to Respondent's use of Respondent's Mark.

3. Nick van de Wall (professionally known as "Afrojack")
Van De Wall B.V.
Anke Servaesstraat 2
3207 HM Spijkenisse
The Netherlands

Mr. van de Wall has information regarding Petitioner's use of Petitioner's Mark, including but not limited to information regarding the issue of priority as it relates to Respondent's use of Respondent's Mark. A phone number for Mr. van de Wall can be obtained through counsel for Petitioner.

4. Hugo Langras
Artist Manager for Afrojack
Montana ECI BV
Peter van den Breemerweg 3b
3768 MP Soest
The Netherlands

Mr. Langras has information regarding Petitioner's use of Petitioner's Mark, including but not limited to information regarding the issue of priority as it relates to Respondent's use of Respondent's Mark. A phone number for Mr. Langras can be obtained through counsel for Petitioner.

5. Addy van der Zwan
AZ Audio
Graaf Arnulfstraat 7
3132 JC Vlaardingen
The Netherlands

Mr. van der Zwan has information regarding Petitioner's use of Petitioner's Mark, including but not limited to information regarding Petitioner's use of Petitioner's Mark in connection with the goods and services specified in Petitioner's U.S. Trademark Application Serial No. 86/108564 for Petitioner's Mark. A phone number for Mr. van der Zwan can be obtained through counsel for Petitioner.

B. A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Petitioner is currently in possession of and may produce, in accordance with procedures under Rule 34, the documents within the following categories:

1. Internet screenshots from Respondent's current and former websites www.afrojacks.com, www.afrojacks.co and www.afrojacksmusic.com, through which Respondent disseminates or has disseminated information about Respondent's services.
2. Documents establishing the date of first use of Petitioner's Mark in commerce in connection with the goods and services specified in Petitioner's U.S. Trademark Application Serial No. 86/108564 for Petitioner's Mark.
3. Documents establishing the amount expended by Petitioner in the United States on the advertisement of the goods and services specified in Petitioner's U.S. Trademark Application Serial No. 86/108564 for Petitioner's Mark.
4. Physical and/or web-based flyers, posters and other promotional materials and advertisements used by Petitioner to advertise the goods and services specified in Petitioner's U.S. Trademark Application Serial No. 86/108564 for Petitioner's Mark.
5. Internet screenshots from Petitioner's current and former websites www.afrojack.com and www.afrojack.nu, and Petitioner's social media accounts on Facebook, Twitter, YouTube, Vevo, Hyves, SoundCloud and other social media accounts through which Petitioner disseminates or has disseminated information about Petitioner's goods and services.
6. Internet screenshots from online music stores where Petitioner's sound recordings and music videos are available for sale including iTunes, Amazon, Beatport and other online music stores through which Petitioner's sound recordings and music videos are available for sale.
7. List of commercially released sound recordings and music videos featuring the performances of the artist professionally known as Afrojack including original works, remixes, productions and collaborations.
8. List of live musical performances and disc jockey performances by the artist professionally known as Afrojack.
9. Press articles, reviews, interviews, features and other press materials about the artist professionally known as Afrojack.
10. List of music industry awards, achievements, distinctions and other honors achieved by the artist professionally known as Afrojack.

C. A computation of each category of damages claimed by the disclosing party.

Not applicable.

D. Any insurance agreement under which an insurance business may be liable.

Not applicable.

Although Petitioner has made a good faith effort to comply with the requirements of Rule 26(a)(1), Petitioner reserves the right to supplement this disclosure as additional information and materials become available and Petitioner further reserves the right to utilize any witnesses and/or documents identified by Respondent in its disclosures.

Respectfully submitted,

By: 

Kurosh Nasseri

By: 

Babatunde Williams

Law Offices of Kurosh Nasseri PLLC
3207a M Street, NW 3rd Floor
Washington, DC 20007
Telephone: (202) 457-0808
Fax: (202) 457-0909
Email: mail@kurosh.net, babatunde@kurosh.net

Attorneys for Petitioner

Dated: October 3, 2014

CERTIFICATE OF SERVICE

I do hereby certify that on this 3rd day of October, 2014, a copy of the foregoing PETITIONER'S INITIAL DISCLOSURES has been sent to counsel for Respondent by first class mail, postage prepaid, in an envelope addressed to:

Leslie A. Thompson, Esq.
Leslie A. Thompson & Associates
1629 K Street NW, Suite 300
Washington, DC 20006

I do hereby further certify that on this 3rd day of October, 2014, a courtesy copy of the foregoing PETITIONER'S INITIAL DISCLOSURES has been sent to counsel for Respondent by email to the following email address:

lat@thompsoniplaw.com


Michelle Katz

10/3/14
Date